IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14316 of 2004

Between:

Dr.Ch.Swaroopa Rani, W/o.Dr.C.Purushotham,

Occ: Civil Assistant Surgeon,District Head Quarters Hospital,

H.No.8-3-17/1, Opp.Padmavathi Colony,
Petrol Bunk, Mettuguda, Mehaboobnagar.

Mahaboobnagar District.

..... PETITIONER

AND

The Institution of Lok-Ayuktha & Upa Lok-Ayuktha,

Basheerbagh, Hyderabad. rep.by its Registrar.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring that the order of the Hon'ble Upa Lok Ayuktha dt.17-7-04 directing to make further enquiry without discharging the petitioner/public servant even though there are sufficient material for discharge of the petitioner is available on record as illegal and null and void.

Counsel for the Petitioner: MR.V.RAJAGOPAL REDDY

Counsel for the Respondent: None appeared

The Court at the stage of admission made the following

ORDER **(per the Hon'ble Sri Justice Goda Raghuram)**:

The Writ Petition is directed against the proceedings dated 17-07-2004 issued by the Upa-Lokayukta of Andhra Pradesh, at Hyderabad, directing the petitioner to appear before the Authority on 23-07-2004 pursuant to a proposal to conduct an investigation into the complaint dated 30-11-2003 received by the Upa-Lokayuta against the petitioner.

This writ petition, in the nature of a writ of prohibition, is filed urging the singular ground, that the Upa-Lokayukta has no jurisdiction to investigate into the complaint as a disciplinary enquiry was already initiated against the petitioner and is pending. The petitioner is a Civil Assistant Surgeon, otherwise within the jurisdiction of the Upa-Lokayukta.

Section 8 of the Andhra Pradesh Lokayukta and
Upa-Lokayukta Act, 1983 reads as under:

> "**8. Matters not subject to investigation by Lokayukta or Upa-Lokayukta**:-- (1) The Lokayukta or Upa-Lokayukta shall not investigate any allegation,--

a. in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850);

b. in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952);

in case where the Lokayukta or Upa-Lokayukta, as the case may be, has given his prior concurrence for such inquiry:

Provided that if, on an application for such concurrence, no intimation of withholding it is communicated within ninety days after the receipt of the application by the Lokayukta or Upa-Lokayukta, as the case may be, the concurrence shall be deemed to have been given.

(2) The Lokayukta or Upa-Lokayukta shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of six years from the date on which the action complained against is alleged to have been taken place."

The departmental enquiry said to have been initiated against the petitioner is neither a Public enquiry under the Public Services (Inquiries) Act, 1850 or under the Commissions of Inquiry Act, 1952. It is a departmental enquiry under the relevant provisions of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991. Pendency of such an enquiry does not chill or bar the jurisdiction of the Upa-Lokayukta to proceed with an investigation under the provisions of the 1983 Act.

As there is no patent lack of jurisdiction made out, we find no justification for interdicting the process of investigation by the Upa-Lokayukta. The Writ Petition is without merits and is accordingly dismissed. No costs.

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J. CHELAMESWAR, J

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GODA RAGHURAM, J

11th October, 2004

lsn/mrk

To

1. The Institution of Lok-Ayuktha & Upa Lok-Ayuktha,

Basheerbagh, Hyderabad. rep.by its Registrar.

2. Two copies